

Remarks

Claims 1-12 , 15-19, and 21-23 are pending in this application. New claims 24-29 have been added, and no claims have been amended or canceled. Reconsideration of this application is respectfully requested in light of the above amendments and the following remarks.

Rejection of Claims 1-8, 10, 15-19, and 21-23 Under 35 U.S.C. § 103(a) Over Savitzky and Mathias

Claims 1-8, 10, 15-19, and 21-23 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,571,271 issued to Savitzky et al. ("Savitzky") in view of U.S. Patent No. 6,480,627 issued to Mathias et al. ("Mathias"). Applicants respectfully traverse this rejection for the reasons stated below.

Claim 1 recites a system for distributing digital images to a user, where "the digital images include metadata containing information about a source of the digital images." Claim 1 further recites that the software agent includes "at least one set of user-specified criteria for selecting digital images, the at least one set of user-specified criteria including a desired source of the digital images." In addition, claim 1 recites "wherein for each set of user-specified criteria the at least one software agent automatically compares the user-specified criteria with the metadata of digital images available at the image server during a first time period to evaluate and select digital images from the desired source for distribution to the user, the at least one software agent automatically comparing the user-specified criteria with the metadata of additional digital images not available during the first time period whenever the additional digital images are made available at the image server." Independent claims 15 and 21 recite similar language.

The Examiner asserts that Savitzky discloses that "the digital images include metadata containing information about a source of the digital images" as claimed by Applicants, as Savitzky states that the image server "automatically detects the image storage device and

downloads the images stored thereon, adding various data elements, such as a camera ID, date of capture, and the like” (*see* Savitzky, col. 1, lines 47-51). The Examiner further asserts that Savitzky discloses the “user-specified criteria including a desired source of the digital images” as claimed by Applicants, referring to the statement that “the images stored thereon are also searchable by text (i.e., from the captions or titles) or by image features” (*see* Savitzky, col. 1, lines 57-59).

Thus, the Examiner contends that Savitzky’s disclosure of searching by captions, titles, or image features can also include searching by the source of the images, and also that it would also be an obvious embodiment of Savitzky’s invention to enable the user to search based on the source of the image. Applicants respectfully disagree, as there is no disclosure or suggestion that the user-specified criteria used for searching in Savitzky’s system includes image source, nor would it be obvious to search based on this feature.

Outside of Savitzky’s brief disclosure of searching in the Abstract and at col. 1, lines 57-59 described above, the only other mention of requesting images is made with reference to FIG. 4, where Savitzky discusses a personal information agency (PIA) 400 that “comprises an InterForm document 402 ... for handling image requests from a browser 404” (*see* Savitzky, col. 3, lines 21-28). Savitzky continues, stating that “InterForm document 402 includes instructions for showing each image of a roll of images and obtaining those images from image server 100. The complete text of InterForm document 402 is not shown - it might also include process tags for handling submissions of captions and saving of images to disk” (*see* Savitzky, col. 3, lines 32-37). Again, Savitzky does not disclose or suggest that user-specified criteria for selecting images is based on image source as claimed by Applicants.

Therefore, Applicants respectfully submit that the Examiner is impermissibly using hindsight from Applicants’ disclosure to assume that camera ID information saved as metadata is also utilized as user-specified criteria for searching and selecting digital images.

Turning to Mathias, disclosed therein is an image classification system and method that uses pattern recognition for image classification, such that Mathias' system selects images based on the characteristics of the image pattern, and not the source of the image as claimed by Applicants. As such, Mathias does not provide the teaching of user-specified criteria for searching based on image source that is deficient in Savitzky.

Therefore, the combination of Savitzky, which does not disclose a software agent for automatically comparing user-specified criteria including image source with digital image metadata, and Mathias, which does not disclose any method for image selection besides the evaluation of image pattern characteristics, does not result in Applicants' claimed invention. Furthermore, neither Savitzky nor Mathias recognize a problem solved by Applicants' invention, namely the ability to provide digital images from a particular source to a user whenever the images become available.

Accordingly, independent claims 1, 15, and 21 are believed to be patentably distinguishable over the combination of Savitzky and Mathias, and Applicants respectfully request reconsideration and withdrawal of the rejection of these claims, along with their corresponding dependent claims, under 35 U.S.C. § 103(a).

Rejection of Claims 9 and 11-12
Under 35 U.S.C. § 103(a) Over Savitzky, Mathias, and Shiota

Claims 9 and 11-12 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Savitzky in view of Mathias and U.S. Patent No. 6,337,712 issued to Shiota. Claims 9 and 11-12 depend from and contain all the limitations of independent claim 1 which, for the reasons stated above, is believed to be patentably distinguishable over Savitzky and Mathias, either alone or in further combination with Shiota. Accordingly, reconsideration and withdrawal of the rejection of these claims is also respectfully requested.

New claims

New claims 23-29 have been added which recite that the digital images include video or audio, support for which can be found, for example, at p. 5, lines 8-10 and at p. 6, lines 22-24 of the specification. Claims 23-29 depend from and contain all the limitations of one of independent claims 1, 15, and 21, and thus are also patentable over the cited art.

Conclusion

In summary, Applicants believe that the claims meet all formal and substantive requirements and that the case is in appropriate condition for allowance. Accordingly, such action is respectfully requested. If a telephone conference would expedite allowance of the case or resolve any further questions, such a call is invited at the Examiner's convenience.

A check in the amount of **\$300.00** is enclosed to cover the additional claims filing fee. Please charge any additional fees or credit any overpayments as a result of the filing of this paper to our Deposit Account No. 02-3978.

Respectfully submitted,

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